

Douglas W. Bailey #7-5102
Henry F. Bailey, Jr. #5-1681
BAILEY|STOCK|HARMON|COTTAM|LOPEZ LLP
221 East 21st Street
P.O. Box 1557
Cheyenne, WY 82003
307-638-7745
Doug@Performance-Law.com

IN THE DISTRICT COURT, FIRST JUDICIAL DISTRICT

LARAMIE COUNTY, WYOMING

TIMOTHY SCHLESNER, TRACY SCHLESNER, and DAKOTA SCHLESNER Plaintiffs v. SEAN EDWARD MONAHAN and ROCKY MOUNTAIN TRANSPORT, LLC Defendants	Case No. <u>192-487</u> FILED DEC 05 2019 DIANE SANCHEZ CLERK OF THE DISTRICT COURT
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COMPLAINT

For their claims of relief against Defendants, Plaintiffs, Timothy Schlesner, Tracy Schlesner, and Dakota Schlesner, allege the following:

PARTIES, JURISDICTION, AND VENUE

1. Plaintiffs, Tim, Tracy, and Dakota Schlesner reside in Ixonia, Jefferson County,

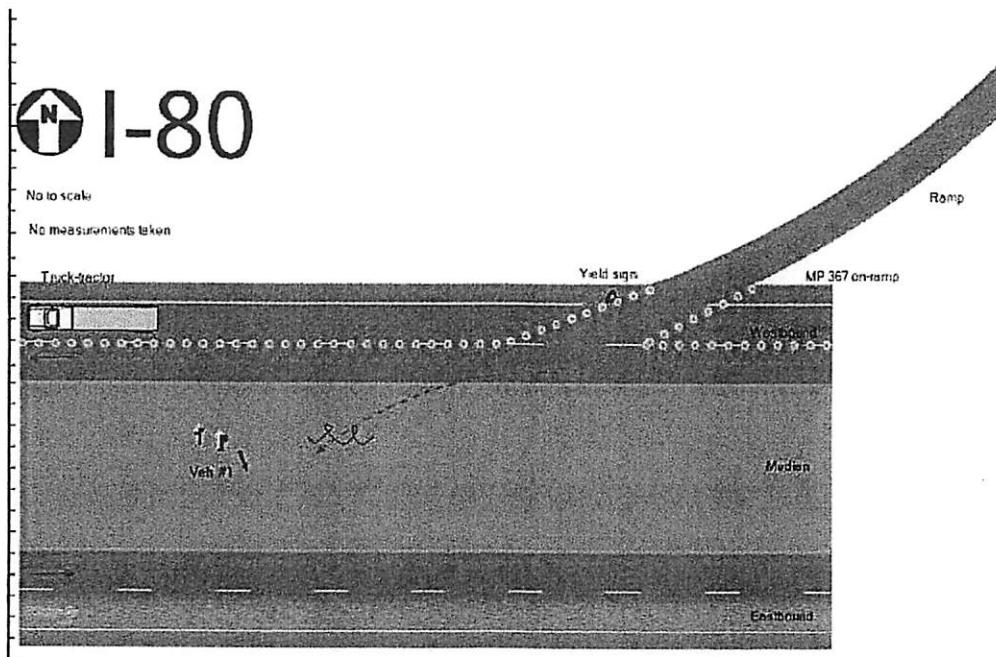
Wisconsin.

2. Defendant Sean Edward Monahan is believed to reside in Nampa, Canyon County, Idaho.
3. Defendant Sean Edward Monahan was an employee of Defendant Rocky Mountain Transport, LLC acting within the course and scope of his duties at the time of the events giving rise to the allegations in this Complaint.
4. Defendant Rocky Mountain Transport, LLC is a Utah Limited Liability Company that carries on some business in and through Wyoming. Its principal office is in Salt Lake City, Salt Lake County, Utah, with C T Corporation System as its Wyoming registered agent.
5. This Court has personal jurisdiction over Defendants.
6. The amount in controversy is sufficient to invoke the general subject matter jurisdiction of this Court.
7. Because the facts that give rise to this Complaint occurred in Laramie County, venue is proper in this Court.

FACTS

8. Plaintiffs Tim and Tracy Schlesner are husband and wife.
9. Tim Schlesner is 51 years old.

10. Tracy Schlesner is 47 years old.
11. Plaintiff Dakota Schlesner is an adult daughter of Tim and Tracy Schlesner. She is 21 years old.
12. On August 15, 2018, Tim and Tracy were riding west through Laramie County, Wyoming on I-80 on a motorcycle. Tim was driving the motorcycle and Tracy was a passenger. As Tim and Tracy approached on on-ramp from College Avenue, only one lane of I-80 was open due to construction.
13. All vehicles merging onto I-80 from the College Avenue on-ramp had a YIELD sign at the base of the on-ramp. *See* diagram below:



14. Defendant Monahan was driving a commercial Freightliner tractor/truck with

flatbed for Defendant Rocky Mountain Transport and was at the base of the on-ramp when Tim and Tracy approached it from the East on I-80. Monahan did not yield to Tim and Tracy, who had the right of way. Rather, Monahan came flying onto I-80 from the on ramp without yielding, nearly side-swiping Tim and Tracy and clipping another pickup truck that was travelling behind Tim and Tracy.

15. Monahan's reckless actions caused Tim to swerve into the median in order to avoid being hit by Defendant's tractor/truck/flatbed. The motorcycle tripped and rolled, resulting in severe and permanent injuries to Plaintiffs Tim and Tracy Schlesner.
16. Two eyewitnesses to the crash stated to the investigating officer that they saw Monahan merge into traffic on I-80 without yielding.
17. The investigating officer's Traffic Crash Report indicates that Tim and Tracy were beside the truck when Monahan merged onto I-80.
18. Defendant Monahan's driving was negligent, reckless, and/or careless, and it caused life-threatening and permanent, life-altering injuries to Tim and Tracy Schlesner.
19. Defendant Monahan has a history of traffic violations, including inattentive or careless driving.
20. Defendant Rocky Mountain Transport knew or should have known of Defendant Monahan's history of traffic violations.

Tim Schlesner's Injuries

21. Tim Schlesner was nearly killed in the crash caused by Monahan. He was intubated and fed through a tube for weeks while doctors repaired severe lacerations to his face and ear and treated his broken neck, brain hemorrhage/traumatic brain injury, disrupted left vertebral artery, collapsed lung, and broken ribs. Tim also sustained a broken jaw that couldn't be repaired initially because of the instability in his neck. There are a number of other injuries that Tim sustained in the crash as well, including but not limited to, lacerations, contusions, fractures, sprains, strains, tears, lost teeth, etc.
22. Tim continues to suffer from his injuries physically, psychologically, and emotionally.
23. Tim continues to suffer from physical and cognitive deficits as a result of his injuries, including but not limited to, back pain, neck pain, shoulder pain, lower limb pain, memory, brain fog, cognition, and speech.
24. Tim cannot work or provide for his family anymore, or mentor his daughter, Dakota, to take over the family business.
25. Tim cannot enjoy his hobbies or perform certain activities of daily living anymore.
26. Tim's life has been permanently altered as a result of the crash caused by Monahan.

Tracy Schlesner's Injuries

27. Tracy Schlesner suffered a concussion/traumatic brain injury and multiple lacerations, abrasions, bruises, and soft tissue damage throughout her body from the crash caused by Monahan.
28. Tracy still has persistent memory problems and pain and stiffness in her neck.
29. Tracy cannot enjoy certain hobbies anymore.
30. Tracy's life, and her relationship with her husband, has been permanently altered as a result of the crash caused by Monahan.

Damages

31. Tim, Tracy, and Dakota Schlesner have all sustained economic and non-economic damages as a result of Tim and Tracy's injuries, including but not limited to, past and future medical expenses; past and future lost wages; lost earning capacity; loss of consortium; past pain, suffering, and emotional distress; past loss of enjoyment of life; future probable pain, suffering, and emotional distress; future probable loss of enjoyment of life; and permanent disability.
32. As a result of Plaintiff Tim Schlesner's injuries, he has received, and in the future will continue to receive, medical and hospital care and treatment furnished by the United States of America through the Department of Veterans Affairs. Plaintiff Tim Schlesner, for the sole use and benefit of the United States of America, under the provisions of

42 U.S.C. 2651 and 38 U.S.C. 1729, and with its expressed consent, asserts a claim for the reasonable value of said past and future care and treatment.

FIRST CLAIM FOR RELIEF:

NEGLIGENCE

33. Plaintiffs incorporate the allegations above into this claim.
34. Defendant Monahan had a duty to drive reasonably under the circumstances and obey all traffic laws.
35. Defendant Monahan breached that duty when he failed to yield, or otherwise drove negligently, recklessly, and carelessly, and ran Tim and Tracy Schlesner off the interstate highway into the median.
36. Defendant Monahan's negligent, reckless, and careless driving caused Tim and Tracy to crash their motorcycle and sustain the injuries alleged above.
37. As a direct and proximate result of Defendant's wrongful conduct, Plaintiffs have suffered general and special damages in an amount exceeding the jurisdictional requirements of this Court and to be more specifically proven at trial.
38. Because Defendant Monahan was an employee of Defendant Rocky Mountain Transport at the time of these allegations, Defendant Rocky Mountain Transport is vicariously liable for Defendant Monahan's negligence and all injuries and damages

suffered by the Plaintiffs.

SECOND CLAIM FOR RELIEF:

LOSS OF CONSORTIUM

39. Plaintiffs' incorporate the allegations above into this claim.
40. Due to the significance and permanence of Tim Schlesner's injuries caused by Defendant Monahan, Tracy Schlesner has suffered the loss of Tim's services, society, companionship, advice, guidance, and/or sexual relations.
41. Due to the significance and permanence of Tim Schlesner's injuries caused by Defendant Monahan, Dakota Schlesner has suffered the loss of Tim's services, society, companionship, advice, and/or guidance.
42. Because Defendant Monahan was an employee of Defendant Rocky Mountain Transport at the time of these allegations, Defendant Rocky Mountain Transport is vicariously liable for Defendant Monahan's negligence.

THIRD CLAIM FOR RELIEF:

NEGLIGENT HIRING, RETENTION, SUPERVISION, AND ENTRUSTMENT

43. Plaintiffs' incorporate the allegations above into this claim.
44. Defendant Rocky Mountain Transport had a duty to exercise reasonable care in its

hiring, retention, and supervision of Defendant Monahan.

45. Defendant Rocky Mountain Transport had the ability to hire, retain, supervise, and control its employee, Monahan.

46. Defendant Rocky Mountain Transport supplied a chattel to Defendant Monahan, which Defendant Monahan used – namely a commercial truck.

47. Defendant Rocky Mountain Transport knew or had reason to know, either due to Monahan's prior driving history, that Defendant Monahan would use the commercial truck in a manner involving unreasonable risk of physical harm to himself and others.

48. Notwithstanding Defendant Rocky Mountain Transport's knowledge or imputed knowledge of the dangers posed by Defendant Monahan in the use of a commercial truck, Defendant Rocky Mountain Transport hired, retained, and entrusted a commercial truck to Defendant Monahan, which resulted in injury to Plaintiffs.

49. Plaintiffs have suffered damages due to their injuries, as outlined above, and to be proven at trial.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs request this Court to grant the following:

1. Judgment against Defendants for:

a. special damages in an amount consistent with the allegations contained herein

and to be proven at trial;

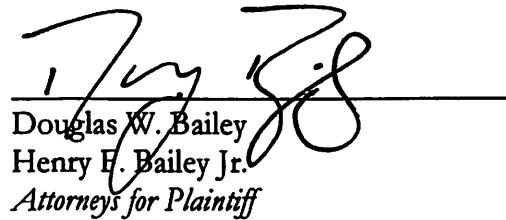
b. general damages in an amount consistent with the allegations contained herein and to be proven at trial; and

c. All costs incurred herein.

2. Any other relief the Court deems appropriate.

DATED December 5, 2019.

BAILEY|STOCK|HARMON|COTTAM|LOPEZ LLP



Douglas W. Bailey
Henry E. Bailey Jr.
Attorneys for Plaintiff